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Attorneys for Defendant, Wal-Mart Stores, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DARLENE STEVENS, as an individual  
and as the wife of SCOTT STEVENS, and  
SCOTT STEVENS, as an individual and  
as the husband of DARLENE STEVENS,

Plaintiffs,

v.

KEVIN PRENTICE, WAL-MART  
STORES, INC., DOE MAINTENANCE  
EMPLOYEE, DOE EMPLOYEE, DOE  
JANITORIAL EMPLOYEE, DOE  
OWNER I-V, ROE OWNERS, ROE  
EMPLOYER, and ROE COMPANIES,

Defendants.

Case Number:

**NOTICE OF REMOVAL**

**TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEVADA**

Defendant Wal-Mart Stores, Inc, (“Walmart”), under 28 U.S.C. §§ 1332, 1441, and 1446, removes Nevada State Court Case No. A-17-750037-C, pending in Department III of the Eighth Judicial District Court, Clark County, Nevada. This removal is based on these grounds:

**DESCRIPTION OF THE ACTION**

On January 24, 2017, Plaintiffs Darlene and Scott Stevens (“the Stevenses”) filed a Complaint in Nevada State Court against Walmart, a Walmart store employee named Kevin Prentice, and various fictitious defendants. A true and correct copy of that Complaint is attached as Exhibit 1. The Complaint alleges that Darlene Stevens “slipped and fell as a result of liquid on the supermarket walkway, causing her to fall to the floor” at a Las Vegas area Walmart store. *See id.*, Compl. at 14. Although she “was otherwise injured in and about the head, neck, shoulders, back, legs, hips, knees, ankles, feet, toes, and wrists” the Stevenses pled “monetary damages in an amount in excess” of \$10,000 “to be proved specifically at the time of trial.” *See id.*, Compl. at 15. The Stevenses served Walmart with the Complaint and Summons on February 9, 2017, and they served Mr. Prentice on February 22, 2017. A true and correct copy of the Walmart Summons is attached as Exhibit 2. Walmart filed its Answer in Nevada State Court on March 1, 2014 and Mr. Prentice filed his answer on March 15, 2017. A true and correct copy of Walmart’s Answer is attached as Exhibit 3.

Nevada Rule of Arbitration 3 subjects all civil cases to arbitration if a probable jury award is “not in excess of \$50,000.” A litigant can claim an exemption from the arbitration program if he files “a request to exempt the case from the program and serve the request on any party who has appeared in the

1 action.” N.A.R. 5. On March 15, 2017, the Stevenses filed their Request for  
 2 Exemption from Arbitration, a true and correct copy of which is attached as  
 3 Exhibit 4. That Request claimed medical special damages totaling \$478,012.99 as  
 4 the reason an exemption from the arbitration program was appropriate. *See* Ex. 4,  
 5 Req. 3.

### 6 **BASIS FOR REMOVAL (DIVERSITY JURISDICTION)**

7 This Court has jurisdiction over this proceeding under 28 U.S.C. 1332.  
 8 Federal diversity jurisdiction has two elements: (1) complete diversity of  
 9 citizenship between the parties and (2) the amount of controversy exceeds  
 10 \$75,000, exclusive of interests and costs. For reasons set forth below, both  
 11 elements are satisfied, and removal is proper under 28 U.S.C. § 1441.

#### 12 **A. Diversity of Citizenship Between the Parties**

13 The Stevenses filed its Complaint against Walmart, fictitious defendants,  
 14 and Mr. Prentice, a Nevada resident, as are the Stevenses. But this case may be  
 15 removed. The Stevenses fraudulently joined Mr. Prentice as their Complaint lacks  
 16 a single allegation against him.

#### 17 **1. Plaintiff fraudulently joined Walmart Employee, Kevin** 18 **Prentice**

19 Generally, a resident defendant destroys diversity. But if “the plaintiff fails  
 20 to state a cause of action against a resident defendant, and the failure is obvious  
 21 according to the settled rules of the state, the joinder of the resident defendant is  
 22 fraudulent.” *McCabe v. Gen. Foods Corp.*, 811 F.2d 1336, 1339 (9th Cir. 1987).  
 23 Although there is a strong presumption against removal jurisdiction (*Hunter v.*  
 24 *Philip Morris USA*, 582 F.3d 1039, 1046 (9th Cir. 2009)), the Stevenses’ failure to  
 25 make a single allegation against Mr. Prentice is “obvious” from the face of the  
 26 Complaint.  
 27  
 28

1           The Stevenses' Complaint only references Mr. Prentice in Paragraph 3, in  
 2           their introductions of the parties. Nowhere else in the Complaint is Mr. Prentice  
 3           mentioned, named, or identified. The Stevenses' Complaint alleges that Walmart  
 4           and the fictitious defendants, and not Mr. Prentice, had actual or constructive  
 5           notice "that liquid and/or substance had been spilled on the floor" and "failed to  
 6           inspect, repair, and correct the said condition." Compl. at 13, 14. And the  
 7           Stevenses finger Walmart and the fictitious defendants, and not Mr. Prentice, as  
 8           negligent and the cause of the Stevenses' injuries. *See id.* p. 4-8.<sup>1</sup> The Stevenses'  
 9           Complaint lacks a single material allegation against Mr. Prentice.

10           The Stevenses' Complaint resembles a complaint filed in California state  
 11           court against Allstate Insurance and three Allstate employees and later removed to  
 12           federal court. *Brown v. Allstate Ins. Co.*, 17 F. Supp. 2d 1134 (S.D. Cal. 1998).  
 13           Plaintiff moved to remand the case to state court because the Allstate employees  
 14           and the plaintiff resided in California. *Id.* at 1137. The court denied plaintiff's  
 15           motion and dismissed the three named employees without prejudice. *Id.* The  
 16           court held that although "Plaintiff's complaint and FAC name the three individual  
 17           defendants in the caption and in the headings of some causes of action, no material  
 18           allegations against these defendants are made." *Id.*

19           The Stevenses make "no material allegation" against Mr. Prentice. He has  
 20           been fraudulently joined to destroy diversity. And should Plaintiff file a motion for  
 21           remand, Mr. Prentice should be dismissed.

## 22           **2. The Stevenses and Walmart are Diverse**

23           The Stevenses are Nevada citizens based on domicile, as they plead  
 24           residency in Clark County, Nevada. *See* Ex. 1, Compl. at 2. Upon information and

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25  
 26           <sup>1</sup> The Stevenses' Complaint contains duplicate paragraphs 13, 14, and 15. Because of the  
 27           Complaint's typographical errors, Walmart cites to the pages in the Stevenses' Complaint.

1 belief, the Stevenses reside in Nevada intending to remain there indefinitely. “A  
2 person’s domicile is her permanent home, where she resides with the intention to  
3 remain or to which she intends to return.” *Kanter v. Warner-Lambert Co.*, 265  
4 F.3d 853, 857 (9th Cir. 2001); *see also State Farm Mut. Auto Ins. Co. v. Dyer*, 19  
5 F.3d 514, 520 (10th Cir. 1994) (“Residence alone is not the equivalent of  
6 citizenship, but the place of residence is prima facie the domicile.”)

7 To determine a company’s principal place of business, a court must apply  
8 the “nerve center” test. *Hertz Corp. v. Friend*, 559 U.S. 77, 91-92, 130 S. Ct. 1181,  
9 1192 (2010). Under this test, the question is where “a corporation’s officers  
10 direct, control and coordinate the corporation’s activities.” 559 U.S. at 92-93. It  
11 “normally should be the place where the corporation maintains its headquarters  
12 ....” 559 U.S. at 93. While Walmart is incorporated under the laws of Delaware,  
13 its “nerve center” is in Arkansas, where its corporate headquarters are located.  
14 *Richey v. Wal-Mart Stores, Inc.*, 390 F. App’x 375, 378 (5th Cir. 2010) (finding  
15 complete diversity where at time of removal, Plaintiff was a citizen of Texas and  
16 Walmart is incorporated in Delaware, with its principal place of business in  
17 Arkansas); *Menard v. Hewlett Packard Co.*, No. 12-3570, 2012 U.S. Dist. LEXIS  
18 100382 (E.D. Pa. July 19, 2012) (holding complete diversity exists and noting that  
19 Plaintiffs are citizens of Pennsylvania, HP is a citizen of Delaware and California,  
20 and Walmart is a citizen of Arkansas and Delaware); *Freeman v. Wal-Mart Stores,*  
21 *Inc.*, 11-CV-3816 DMC JAD, 2012 WL 893085 (D.N.J. Mar. 13, 2012) (“It is  
22 undisputed that the parties to this suit are of diverse citizenship. Plaintiff is a  
23 citizen of New Jersey while Walmart Stores, Inc. is a corporation organized, and  
24 existing under the laws of Delaware with its principal place of business in  
25 Bentonville, Arkansas.”).

26 Because Walmart is a citizen of Delaware and Arkansas and Plaintiffs are  
27  
28

1 citizens of Nevada, diversity of citizenship exists between all parties named in the  
 2 Stevenses' Complaint. While the Stevenses named fictitious defendants, they  
 3 have not been named or served, so they are not parties to the action. This court  
 4 can disregard the fictitious defendants for the purposes of this removal. 28  
 5 U.S.C. § 1441(a); *McCabe v. Gen. Foods, Inc.*, 811 F.2d 1336, 1339 (9th Cir. 1987)  
 6 (disregarding 100 Doe defendants on grounds that the court has "no information  
 7 as to who they are or where they live or their relationship to the action.").

8 **B. Amount in Controversy Exceeds \$75,000**

9 An action may be removed if, in addition to complete diversity, the  
 10 aggregate amount-in-controversy exceeds the jurisdictional amount of \$75,000.  
 11 "Under this standard, the removing party's burden is not daunting, and  
 12 defendants are not obligated to research, state, and prove the plaintiff's claims for  
 13 damages." *Cagle v. C & S Wholesale Grocers, Inc.*, No. 2:13-CV-02134-MCE, 2014  
 14 WL 651923, at \*7 (E.D. Cal., Feb. 19, 2014) (internal quotations omitted).  
 15 "Generally, the amount in controversy is determined from the face of the  
 16 pleadings." *Crum v. Circus Circus Enters.*, 231 F.3d 1129, 1131 (9th Cir. 2000).  
 17 When the amount of controversy cannot be determined from the face of a state-  
 18 court pleading, a defendant may rely on another filing or document, containing "a  
 19 plausible allegation that the amount in controversy exceeds the jurisdictional  
 20 threshold." *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554,  
 21 190 L.Ed.2d 495, 499 (2014).

22 Here, the Stevenses' Complaint does not specify the amount of damages.  
 23 See Ex. 1, Compl. 15(p. 7), 20. Approximately two months after their Complaint,  
 24 the Stevenses filed a Request for Arbitration, which specified medical damages  
 25 exceeded \$450,000. See Ex. 4, Req. 3. Besides the medical damages, Plaintiff also  
 26 seeks attorneys' fees recoverable by statute, which is included in the determining  
 27

1 the total amount in controversy. *See Galt G/S v. JSS Scandinavia*, 142 F.3d 1150,  
 2 1155-56 (9th Cir. 1998); *Goldberg v. CPC Int'l, Inc.*, 678 F.2d 1365, 1367 (9th Cir.  
 3 1982) (stating that attorneys' fees may be considered to determine jurisdictional  
 4 amount). With the explicit medical damages coupled with unspecified attorneys'  
 5 fees, the Stevenses plead damages over \$75,000, inclusive of interest and costs.

#### 6 **TIMING**

7 This Notice of Removal is timely, under 28 U.S.C. § 1446(b)(3), because  
 8 Walmart discovered within the last thirty days that the amount in controversy  
 9 exceeds \$75,000.

10 Nevada Rule of Civil Procedure 8 requires a litigant to plead an  
 11 unspecified amount of damages when his claim exceeds \$10,000. Consequently, a  
 12 defendant in a Nevada state court civil action must ascertain the amount in  
 13 controversy through other filings and documents. Once that defendant receives a  
 14 filing or document "from which it may first be ascertained that the case is one  
 15 which is or has become removable," he must file his notice of removal "within  
 16 thirty days after receipt." 28 U.S.C. § 1443(b)(3). Although 28 U.S.C.  
 17 § 1443(b)(3) provides a second 30-day removal period, the defendant may not  
 18 remove a case "more than one year after commencement of the action." 28  
 19 U.S.C. § 1443(c).

20 Here, the Stevenses filed their Complaint on January 24, 2017. *See* Ex. 1,  
 21 Compl. 1. Because that Complaint only pled "damage in excess of \$10,000" (*See*  
 22 Ex. 1, Compl. 20) Walmart waited to ascertain the specific amount in controversy.  
 23 On March 15, 2017, the Stevenses filed their Request for Exemption from  
 24 Arbitration, which cited medical damages totaling \$478,012.09. *See* Ex. 4, Req. 3.  
 25 Upon receipt of that Request, the case became removable. Because the Stevenses  
 26 filed their initial Complaint less than three months and their Request for  
 27

Exemption less than a month ago, Walmart's Notice of Removal is timely under 28 U.S.C. § 1443(b)(3). *See, e.g., Turner v. Paul Revere Life Ins. Co.*, No. 2:14-CV-1205 JCM (VCF), 2014 U.S. Dist. LEXIS 174790 (D. Nev. Dec. 16, 2014) (holding that removal was timely based on the exemption from arbitration form); *Erbe v. State Farm Fire & Cas. Co.*, 2015 U.S. Dist. LEXIS 86619, 2015 WL 3994969 (D. Nev. July 1, 2015) (denying plaintiff's motion to remand because defendant could only remove the case after plaintiff filed notice of exemption from arbitration, among other reasons).

### CONCLUSION

Because Walmart timely filed a notice of removal and this Court has original jurisdiction based on diversity, this Action must be removed to this Court.

Walmart will also timely file a Notice of Removed Action in the Eighth Judicial District Court, Clark County, Nevada, a true and correct copy of which is attached as Exhibit 5. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal and its attachments will promptly be served on Plaintiff in this Action.

In filing this Notice of Removal, Walmart does not waive, and specifically reserves, all defenses, exceptions, rights and motions. No statement or omission shall be deemed to constitute an admission by Walmart of the allegations or damages sought in the Complaint.

Dated: April 5, 2017

**LAW OFFICES OF CHARLES ABBOTT, PC**

By: /s/ Charles Abbott  
Charles Abbott (SBN 13811)  
2150 Park Place, Suite 100  
El Segundo, CA 90245

Attorney for Defendant, Wal-Mart Stores, Inc.



# EXHIBIT 1

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CLERK OF THE COURT

1 **COMP**  
2 **RYAN M. ANDERSON, ESQ.**  
3 Nevada Bar No. 11040  
4 **JACQUELINE BRETELL, ESQ.**  
5 Nevada Bar No. 12335  
6 **GARRY B. TRINH, ESQ.**  
7 Nevada Bar No. 14289  
8 **MORRIS//ANDERSON**  
9 716 S. Jones Blvd.  
10 Las Vegas, Nevada 89106  
11 Phone: (702) 333-1111  
12 Fax: (702) 507-0092  
13 *Attorneys for Plaintiff Darlene Stevens*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 **DARLENE STEVENS**, as an individual and as  
12 the wife of **SCOTT STEVENS**, and  
13 **SCOTT STEVENS**, as an individual and as the  
husband of **DARLENE STEVENS**,

**CASE NO: A-17-750037-C**  
**DEPT. NO: III**

14 **Plaintiffs,**

15 **v.**

16 **KEVIN PRENTICE,**  
17 **WAL-MART STORES, INC, DOE**  
18 **MAINTENANCE EMPLOYEE, DOE**  
19 **EMPLOYEE, DOE JANITORIAL**  
20 **EMPLOYEE, DOE OWNER, I-V, ROE**  
21 **OWNERS, ROE EMPLOYER, and ROE**  
**COMPANIES.**

**Defendants.**

22 **PLAINTIFF'S COMPLAINT**

23 **COMES NOW** the Plaintiffs **DARLENE STEVENS** and **SCOTT STEVENS**, by and through  
24 counsel, **RYAN M. ANDERSON, ESQ., JACQUELINE R. BRETELL, ESQ.,** and **GARRY B. TRINH,**  
25 **ESQ..** of the law firm of **MORRIS//ANDERSON**, and for her cause of action against the Defendants,  
26  
27 **and each of them, alleges as follows:**

1. That PLAINTIFF DARLENE STEVENS was at all times relevant to this action a resident of Clark County, Nevada and/or Pinellas County, Florida.
2. That PLAINTIFF SCOTT STEVENS was at all times relevant to this action a resident of Clark County, Nevada and/or Pinellas County, Florida.
3. That DEFENDANT KEVIN PRENTICE was at all times relevant to this action the subject shift manager and/or manager at Defendant WAL-MART and is a resident of Clark County, Nevada.
4. Upon information and belief, that at all times relevant to this action, the Defendants, WAL-MART STORES, INC. (hereinafter referred to as "DEFENDANT WAL-MART") and/or ROE COMPANY, are Nevada corporations, which are doing business in the State of Nevada.
5. Upon information and belief DEFENDANT DOE OWNER and/or DEFENDANT ROE OWNER is the owner of the property located at 540 Marks Street, Henderson, Nevada and is a resident of Clark County, Nevada.
6. Upon information and belief, at all relevant times to this action DEFENDANT ROE EMPLOYER was an entity doing business in the State of Nevada and was employing Defendants, and each of them.
7. Upon information and belief, at all times relevant to this action, DEFENDANT DOE EMPLOYEE and/or DEFENDANT DOE MAINTENANCE EMPLOYEE and/or DEFENDANT DOE JANITORIAL EMPLOYEE (hereinafter referred to as "DEFENDANT DOE EMPLOYEE") was acting in the course and scope of his/her employment with Defendants, and each of them.
8. That the true names and capacities, whether individual, corporate, partnership, associate or otherwise, of Defendants, DOES I through V, are unknown to Plaintiffs, who therefore sues said Defendants by such fictitious names. Plaintiffs are informed and believes and thereon alleges that each of the Defendants designated herein as DOE is responsible in some manner for the events and happenings referred to and caused damages proximately to Plaintiffs as herein alleged, and that

1 Plaintiffs will ask leave of this Court to amend this Complaint to insert the true names and  
2 capacities of DOES I through V, when the same have been ascertained, and to join such  
3 Defendants in this action.

4 **FIRST CAUSE OF ACTION**

5  
6 9. That upon information and belief, at all times relevant to this action, the Defendants,  
7 DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT  
8 ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER  
9 and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants, were the owners or lessees  
10 and occupied, operated, maintained and controlled those premises located at 540 Marks Street,  
11 Henderson, Nevada, wherein it actively conducted a supermarket at said location.

12  
13 10. That on or about the May 10, 2015, and for some time prior thereto, the Defendants,  
14 DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT  
15 ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER  
16 and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants (by and through their  
17 authorized agents, servants, and employees, acting within the course and scope of their  
18 employment), negligently and carelessly owned, maintained, operated, occupied, and controlled  
19 the said premises, located at 540 Marks Street, Henderson, Nevada, so as to cause and allow cause  
20 and allow a floor to be wet and/or slippery in a manner as to cause an unreasonably dangerous  
21 condition, thus, making the walkway hazardous and/or dangerous.

22  
23 11. That on or about the May 10, 2015, and for some time prior thereto, the Defendants,  
24 DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT  
25 ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER  
26 and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants (by and through their  
27  
28

1 authorized agents, servants, and employees, acting within the course and scope of their  
2 employment), negligently and carelessly owned, maintained, operated, occupied, and controlled  
3 the said premises, located at 540 Marks Street, Henderson, Nevada, in that they maintained the area  
4 in such a manner that it presented a dangerous and hazardous condition in an area intended for the  
5 use and commonly and regularly used by customers and invitees of the said Defendants,  
6 DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT  
7 ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER  
8 and/or DEFENDANT DOE EMPLOYEE, and each Defendant.

10 12. That on or about the May 10, 2015, and for some time prior thereto, the Defendants,  
11 DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT  
12 ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER  
13 and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants (by and through their  
14 authorized agents, servants, and employees, acting within the course and scope of their  
15 employment), negligently and carelessly owned, maintained, operated, occupied, and controlled  
16 the said premises, located at 540 Marks Street, Henderson, Nevada, so as to cause and allow cause  
17 and allow a floor to be wet and slippery in a manner as to cause an unreasonably dangerous  
18 condition, thus, making the walkway hazardous and dangerous for those using it, and more  
19 particularly for PLAINTIFF DARLENE STEVENS.  
20

21  
22 13. That on or about the May 10, 2015, and for some time prior thereto, the Defendant, DEFENDANT  
23 WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT ROE OWNER  
24 and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER and/or  
25 DEFENDANT DOE EMPLOYEE, and each of the Defendants (by and through their authorized  
26 agents, servants, and employees, acting within the course and scope of their employment),  
27  
28

1 negligently and carelessly owned, maintained, operated, occupied, and controlled the said  
2 premises, located at 540 Marks Street, Henderson, Nevada, in that Defendant, DEFENDANT  
3 WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT ROE OWNER  
4 and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER and/or  
5 DEFENDANT DOE EMPLOYEE permitted, allowed and caused said unsafe condition to remain  
6 even though Defendants, DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY  
7 and/or DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT  
8 ROE EMPLOYER and/or DEFENDANT DOE EMPLOYEE knew or, through the exercise of  
9 ordinary care and diligence, should have known, that liquid and/or substance had been spilled on  
10 the floor creating a slippery, hazardous and dangerous condition.  
11

12 14. That Defendant, DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or  
13 DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE  
14 EMPLOYER and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants, failed to  
15 maintain the aforesaid premises in a reasonably safe condition; and that Defendant, DEFENDANT  
16 WAL-MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT ROE OWNER  
17 and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER and/or  
18 DEFENDANT DOE EMPLOYEE, and each of the Defendants, negligently, carelessly and  
19 recklessly failed to inspect, repair and correct the said condition, or warn PLAINTIFF DARLENE  
20 STEVENS of the defect therein.  
21

22  
23 15. At all times herein concerned or relevant to this action, the Defendant, DEFENDANT WAL-  
24 MART and/or DEFENDANT ROE COMPANY and/or DEFENDANT ROE OWNER and/or  
25 DEFENDANT DOE OWNER and/or DEFENDANT ROE EMPLOYER and/or DEFENDANT  
26 DOE EMPLOYEE, and each of the Defendants, acted by and through their duly authorized agents,  
27  
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1 servants, workmen and/or employees then and there acting within the course of their employment  
2 and scope of their authority for the Defendant, DEFENDANT WAL-MART and/or  
3 DEFENDANT ROE COMPANY and/or DEFENDANT ROE OWNER and/or DEFENDANT  
4 DOE OWNER and/or DEFENDANT ROE EMPLOYER and/or DEFENDANT DOE  
5 EMPLOYEE, and each of the Defendants.

6  
7 16. That the carelessness and negligence of the Defendant, DEFENDANT WAL-MART and/or  
8 DEFENDANT ROE COMPANY and/or DEFENDANT ROE OWNER and/or DEFENDANT  
9 DOE OWNER and/or DEFENDANT ROE EMPLOYER and/or DEFENDANT DOE  
10 EMPLOYEE, and each of the Defendants, in breaching a duty owed to the PLAINTIFF  
11 DARLENE STEVENS, which directly and proximately caused the injuries and damages to  
12 PLAINTIFF DARLENE STEVENS, consisting in and of, but not limited to, the following acts,  
13 to-wit:

14  
15 (a) Failure to provide a safe premises for PLAINTIFF DARLENE STEVENS, to walk in the  
16 premise;

17 (b) Failure to warn PLAINTIFF DARLENE STEVENS, of the dangerous and hazardous  
18 condition then and there existing in said premise;

19 (c) Failure to properly and adequately inspect the said dangerous condition in the supermarket's  
20 walkways to ascertain its hazardous and dangerous condition;

21 (d) Failure to properly and adequately maintain the supermarket's walkways;

22 (e) The Defendant, DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or  
23 DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE  
24 EMPLOYER and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants, had, or  
25  
26  
27  
28

1 should have had, knowledge or notice of the existence of the said dangerous and defective  
2 condition which existed on said premises.

3 13. The Defendant, DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or  
4 DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE  
5 EMPLOYER and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants, may have  
6 violated certain statutes, ordinances and building codes, which the Plaintiff prays leave of Court to  
7 insert the exact statutes or ordinances or codes at the time of the trial.  
8

9 14. That on or about May 10, 2015, PLAINTIFF DARLENE STEVENS, while lawfully upon the said  
10 premises of DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or  
11 DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE  
12 EMPLOYER, as a direct and proximate result of the said negligence and carelessness of the  
13 Defendant, DEFENDANT WAL-MART and/or DEFENDANT ROE COMPANY and/or  
14 DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or DEFENDANT ROE  
15 EMPLOYER and/or DEFENDANT DOE EMPLOYEE, and each of the Defendants, was caused  
16 to suffer the injuries and damages hereinafter set forth when she slipped and fell as a result of  
17 liquid on the supermarket walkway, causing her to fall to the floor, proximately causing to her the  
18 injuries and damages as hereinafter more particularly alleged.  
19

20 15. By reason of the premises and as a direct and proximate result of the aforesaid negligence and  
21 carelessness of the Defendant, DEFENDANT WAL-MART and/or DEFENDANT ROE  
22 COMPANY and/or DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or  
23 DEFENDANT ROE EMPLOYER and/or DEFENDANT DOE EMPLOYEE, and each of the  
24 Defendants, PLAINTIFF DARLENE STEVENS, was otherwise injured in and about the head,  
25 neck, shoulders, back, legs, hips, knees, ankles, feet, toes, and wrists, and caused to suffer great  
26  
27  
28



1 pain of body and mind, all or some of the same are chronic and may result in permanent disability  
2 and are disabling, all to PLAINTIFF DARLENE STEVENS, damage in an amount in excess of  
3 Ten Thousand Dollars (\$10,000.00).

4 17. By reason of the premises, and as a direct and proximate result of the aforesaid negligence and  
5 carelessness of the Defendant, DEFENDANT WAL-MART and/or DEFENDANT ROE  
6 COMPANY and/or DEFENDANT ROE OWNER and/or DEFENDANT DOE OWNER and/or  
7 DEFENDANT ROE EMPLOYER and/or DEFENDANT DOE EMPLOYEE, and each of the  
8 Defendants, PLAINTIFF DARLENE STEVENS, has been caused to incur medical expenses, and  
9 will in the future be caused to expend monies for medical expenses and additional monies for  
10 miscellaneous expenses incidental thereto, in a sum presently unascertainable. PLAINTIFF  
11 DARLENE STEVENS will pray leave of Court to insert the total amount of the medical and  
12 miscellaneous expenses when the same have been fully determined at the time of the trial of this  
13 action.  
14

15  
16 18. PLAINTIFF DARLENE STEVENS has been required to retain the law firm of  
17 MORRIS//ANDERSON to prosecute this action, and is entitled to a reasonable attorney's fee.  
18

#### 19 SECOND CAUSE OF ACTION

20 Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1 through 18 as though fully set  
21 forth herein.

22 19. Plaintiff, SCOTT STEVENS is the husband of Plaintiff, DARLENE STEVENS and has been  
23 her husband at all times relevant herein.

24 20. As a direct and proximate result of the Defendants' negligence, and each of them, Plaintiff,  
25 SCOTT STEVENS has suffered loss of consortium, companionship and society and  
26 consequently, severe emotional distress, past, present and future, all to Plaintiff's damage in  
27  
28

1 excess of \$10,000.00.

2 21. As further proximate result of the negligence of Defendants, and each of them, Plaintiff,  
3 SCOTT STEVENS has incurred loss of support from DARLENE STEVENS, and that Plaintiff  
4 will continue to suffer such loss for an indefinite time in the future, the full nature and extent of  
5 said injuries are not known to Plaintiffs and leave is requested to amend this complaint to  
6 conform to proof at the time of trial.

7  
8 22. As a further direct and proximate result of the negligence of the Defendants, and each of them,  
9 Plaintiffs have retained the services MORRIS//ANDERSON and therefore seeks reimbursement  
10 for attorneys' fees and costs.

11 **CLAIMS FOR RELIEF:**

12 1. General damages for PLAINTIFF DARLENE STEVENS, in an amount in excess of  
13 \$10,000.00;

14  
15 2. Special damages for said PLAINTIFF DARLENE STEVENS' medical and miscellaneous  
16 expenses as of this date, plus future medical expenses and the miscellaneous expenses incidental  
17 thereto in a presently unascertainable amount;

18 3. General damages for PLAINTIFF SCOTT STEVENS, in an amount in excess of \$10,000.00;

19 4. Costs of this suit;

20 5. Attorney's fees; and

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1 6. For such other and further relief as to the Court may seem just and proper in the premises.

2 DATED THIS 24th day of January, 2017.

3 **MORRIS//ANDERSON**

4 **By: /s/ Jacqueline R. Bretell**  
5 **RYAN M. ANDERSON, ESQ.**  
6 Nevada Bar No. 11040  
7 **JACQUELINE BRETELL, ESQ.**  
8 Nevada Bar No. 12335  
9 **GARRY B. TRINH, ESQ.**  
10 Nevada Bar No. 14289  
11 716 S. Jones Blvd.  
12 Las Vegas, Nevada 89106  
13 Phone: (702) 333-1111  
14 Fax: (702) 507-0092  
15 *Attorneys for Plaintiffs*  
16  
17  
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## EXHIBIT 2

DOCKET

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**DARLENE STEVENS, as an individual and as  
the wife of SCOTT STEVENS, and  
SCOTT STEVENS, as an individual and as the  
husband of DARLENE STEVENS,**

**Plaintiffs,**

**v.**

**KEVIN PRENTICE,  
WAL-MART STORES, INC, DOE  
MAINTENANCE EMPLOYEE, DOE  
EMPLOYEE, DOE JANITORIAL  
EMPLOYEE, DOE OWNER, I-V, ROE  
OWNERS, ROE EMPLOYER, and ROE  
COMPANIES.**

**Defendants.**

**CASE NO: A-17-750037-C  
DEPT. NO: III**

**SUMMONS**

**NOTICE: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING  
HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.**

**TO THE DEFENDANT. A Civil Complaint has been filed by the plaintiff(s) against you for the relief set forth in the  
Complaint.**

**WAL-MART STORES, INC**

**1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the date of  
service, you must do the following:**

- a. File with the Clerk of this Court, whose address is shown below, a formal written response to the  
Complaint in accordance with the rules of the Court.**
- b. Serve a copy of your response upon the attorney whose name and address is shown below.**

**2. Unless you respond, your default will be entered upon application of the plaintiff(s) and this Court may  
enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property  
or other relief requested in the Complaint**

**3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your  
response may be filed on time.**

**Issued at the direction of:**

**MORRIS ANDERSON**

**By:**

**RYAN M. ANDERSON, ESQ.**

**Nevada Bar No. 11040**

**JACQUELINE R. BRETTELL, ESQ.**

**Nevada Bar No. 12335**

**716 S. Jones Blvd.**

**Las Vegas, NV 89107**

**702-333-1111**

**Attorneys for Plaintiff**

**CLERK OF COURT**

**By:**

**Deputy Clerk**

**SHIMAYA LADSON**

## EXHIBIT 3

Charles Abbott (SBN 13811)  
**LAW OFFICES OF CHARLES ABBOTT, PC**  
2150 Park Place, Suite 100  
El Segundo, CA 90245  
(310) 773-3756  
(310) 773-3101 (fax)  
cabbott@cabbottlaw.com

Ronald H. Reynolds (SBN 827)  
Harrison J. Reynolds (SBN 13748)  
**REYNOLDS & ASSOCIATES**  
823 Las Vegas Blvd. S., Suite #280  
Las Vegas, NV 89101  
(702) 445-7000  
(702) 385-7743

Attorneys for Defendant, Wal-Mart Stores, Inc.

DISTRICT COURT  
CLARK COUNTY, NEVADA

DARLENE STEVENS, as an individual  
and as the wife of SCOTT STEVENS, and  
SCOTT STEVENS, as an individual and  
as the husband of DARLENE STEVENS,

Plaintiff,

v.

KEVIN PRENTICE, WAL-MART  
STORES, INC., DOE MAINTENANCE  
EMPLOYEE, DOE EMPLOYEE, DOE  
JANITORIAL EMPLOYEE, DOE  
OWNER I-V, ROE OWNERS, ROE  
EMPLOYER, and ROE COMPANIES,

Defendants.

Case Number: A17750037C  
Dept. No.: III

**DEFENDANT WAL-MART STORES,  
INC.'S ANSWER TO PLAINTIFFS'  
COMPLAINT**

1 Defendant Walmart (hereinafter “Walmart”) through its counsel of  
2 record answers the unverified Complaint filed by Plaintiffs Darlene Stevens and  
3 Scott Stevens (hereinafter “Stevens”). Walmart admits, denies and alleges as  
4 follows:

5 1. Answering paragraph 1, Walmart states it does not have sufficient  
6 knowledge or information upon which to base a belief as to the truth of the  
7 allegation contained therein. Therefore, Walmart denies every allegation in  
8 paragraph 1.

9 2. Answering paragraph 2, Walmart states it does not have sufficient  
10 knowledge or information upon which to base a belief as to the truth of the  
11 allegation contained therein. Therefore, Walmart denies every allegation in  
12 paragraph 2.

13 3. Answering paragraph 3, Walmart states it does not have sufficient  
14 knowledge or information upon which to base a belief as to the truth of the  
15 allegation contained therein. Therefore, Walmart denies every allegation in  
16 paragraph 3.

17 4. Answering paragraph 4, Walmart denies that it is a Nevada  
18 corporation. For any other allegations in paragraph 4, Walmart states it does not  
19 have sufficient knowledge or information upon which to base a belief as to the  
20 truth of the allegation contained therein. Therefore, Walmart denies all other  
21 allegations in paragraph 4.

22 5. Answering paragraphs 5 through 8, Walmart states it does not have  
23 sufficient knowledge or information upon which to base a belief as to the truth of  
24 the allegations contained therein. Therefore, Walmart denies every allegation in  
25 these four paragraphs.



1           6.       Answering paragraphs 9 through 13, Walmart admits that it  
2 operates a Walmart Supercenter #2838 at 540 Marks Street in Henderson,  
3 Nevada. For all other allegations in these paragraphs, Walmart states it does not  
4 have sufficient knowledge or information upon which to base a belief as to the  
5 truth of the allegation contained therein. Therefore, Walmart denies all other  
6 allegations in these five paragraph.

7           7.       Answering paragraphs 14 and 15, Walmart states it does not have  
8 sufficient knowledge or information upon which to base a belief as to the truth of  
9 the allegations contained therein. Therefore, Walmart denies every allegation in  
10 these two paragraphs.

11           8.       Answering paragraph 16, Walmart states it does not have sufficient  
12 knowledge or information upon which to base a belief as to the truth of the  
13 allegations contained therein. On this basis, Walmart denies all allegations in this  
14 paragraph.

15           9.       Answering paragraph 13<sup>1</sup>(sic), Walmart denies it violated a statute,  
16 ordinances, or building codes. For all other allegations contained this paragraph,  
17 Walmart states it does not have sufficient knowledge or information upon which  
18 to base a belief as to the truth of the allegations therein.

19           10.      Answering paragraph 14(sic), Walmart states it does not have  
20 sufficient knowledge or information upon which to base a belief as to the truth of  
21 the allegations contained therein. On this basis, Walmart denies all allegations in  
22 this paragraph.

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23  
24 <sup>1</sup> Plaintiff's Complaint contains typographical errors on page seven. On this page, the Complaint  
25 contains three paragraphs between paragraph 16, which appears on page six, and paragraph 17,  
26 which appears on page 8. Those three paragraphs are mistakenly labeled 13, 14, and 15, even  
27 though paragraphs 13, 14, and 15 also appear on pages four and five. For the sake of clarity and to  
28 match Walmart's response to the correct paragraph, Walmart will label its response to paragraphs  
13-15 on page seven as "paragraph 13(sic)", "paragraph 14(sic)" and "paragraph 15(sic)".

1           11.     Answering paragraph 15(sic), Walmart states it does not have  
2     sufficient knowledge or information upon which to base a belief as to the truth of  
3     the allegations contained therein. On this basis, Walmart denies all allegations in  
4     this paragraph.

5           12.     Answering paragraphs 17 and 18, Walmart states it does not have  
6     sufficient knowledge or information upon which to base a belief as to the truth of  
7     the allegations contained therein. On this basis, Walmart denies all allegations in  
8     these two paragraphs.

9           13.     Answering paragraphs 19 through 22, Walmart states it does not  
10    have sufficient knowledge or information upon which to base a belief as to the  
11    truth of the allegations contained therein. Therefore, Walmart denies every  
12    allegation in these four paragraphs.

### 13                           **AFFIRMATIVE DEFENSES**

14  
15           Walmart incorporates by reference those affirmative defenses enumerated  
16    in NRCP 8 as though fully set forth herein, as applicable upon discovery. If further  
17    investigation or discovery reveals the applicability of any such defenses, Walmart  
18    reserves the right to seek leave of court to amend this Answer to specifically assert  
19    any such defense. Such defenses are herein incorporated by reference so they are  
20    not waived. Walmart asserts these affirmative defenses:

21           1.     As a first, separate, affirmative defense, Walmart alleges that  
22    Stevens's Complaint and each cause of action or purported cause of action  
23    contained therein fails to state facts sufficient to constitute a cause of action  
24    against Walmart.

25           2.     As a second, separate, affirmative defense, Walmart alleges that  
26    Stevens, by their own acts and/or omissions, is estopped from recovering against  
27  
28

1 Walmart.

2 3. As a third, separate, affirmative defense, Walmart alleges that, at  
3 all times and places alleged in the Complaint, Stevens failed to exercise ordinary  
4 and reasonable care on their own behalf and such negligence and carelessness was  
5 a proximate cause of some portion, up to and including the whole of, their own  
6 alleged injuries and damages, if any. Therefore, Stevens's recovery should be  
7 barred or reduced according to law, up to and including the whole thereof.

8 4. As a fourth, separate, affirmative defense, Walmart alleges that,  
9 Stevens, by their own acts and/or omissions, has waived their rights to recover  
10 against Walmart.

11 5. As a fifth, separate, affirmative defense, Walmart alleges that  
12 Stevens has failed to mitigate their damages for the matters referred to in the  
13 Complaint, and that such failure to mitigate bars and/or diminishes Stevens's  
14 recovery against Walmart.

15 6. As a sixth, separate, affirmative defense, Walmart alleges that each  
16 cause of action in Stevens's Complaint is vague, uncertain, and ambiguous as to  
17 Stevens's claim for damages against Walmart.

18 7. As a seventh, separate, affirmative defense, Walmart alleges that  
19 each cause of action contained in Stevens's Complaint is barred by the doctrine of  
20 laches, in that Stevens has unreasonably delayed in bringing these claims, and  
21 those delays have prejudiced Walmart.

22 8. As an eighth, separate, affirmative defense, Walmart alleges that if  
23 it is subjected to any liability herein, that liability will be due in whole, or in part,  
24 to the acts and/or omissions of other parties unknown at this time. Any recovery  
25 obtained by Stevens should be barred or reduced according to law, up to and  
26 including the whole thereof.

1           9.       As a ninth, separate, affirmative defense, Walmart alleges that the  
2 Complaint is barred, in whole or in part, because Walmart did not owe Stevens a  
3 duty. If Walmart owed Stevens a duty, it did not breach its duty to them.

4           10.      As a tenth, separate, affirmative defense, Walmart alleges that the  
5 Complaint and each purported cause of action alleged therein is barred because  
6 Walmart performed all contractual, statutory, and/or other duties it arguably owes  
7 to Stevens under law.

8           11.      As an eleventh, separate, affirmative defense, Walmart alleges that  
9 the Complaint and each purported cause of action alleged therein, is barred  
10 because Stevens's conduct about the matters alleged in the Complaint constituted  
11 carelessness, negligence, and/or misconduct or Stevens was otherwise at fault.  
12 Any resulting injuries sustained by Stevens was proximately caused and  
13 contributed to, in whole or in part, by Stevens's conduct.

14           12.      As a twelfth, separate, affirmative defense, Walmart alleges that  
15 should Stevens recover damages against any defendants, Walmart may have the  
16 amount abated, reduced or eliminated to the extent other third parties' conduct,  
17 or lack thereof, caused or contributed to Stevens's damages, if any.

18           13.      As a thirteenth, separate, affirmative defense, Walmart alleges  
19 there is no evidence Stevens would have followed a warning or such a warning  
20 would have prevented Stevens's injury.

21           14.      As a fourteenth, separate, affirmative defense, Walmart alleges that  
22 Walmart exercised reasonable care and did not know, and in exercising reasonable  
23 care could not have known, of the alleged acts or allegations, which are the subject  
24 of the Complaint.

25           15.      As a fifteenth, separate, affirmative defense, Walmart alleges that  
26 Stevens's Complaint, and every cause of action or purported cause of action  
27  
28

1 contained therein, is barred by all applicable statutes of limitation, including but  
2 not limited to Nev. Rev. Stat. § 11.190.

3 16. As a sixteenth, separate, affirmative defense, Walmart alleges that  
4 Stevens failed to exercise reasonable and ordinary care, caution, or prudence for  
5 their own safety to avoid the alleged accident. Any resulting injuries and damages  
6 sustained by Stevens were proximately caused and contributed to by their own  
7 negligence, in that any possible danger regarding this accident in question was  
8 obvious to anyone using reasonable care.

9 17. As a seventeenth, separate, affirmative defense, Walmart alleges  
10 that Stevens, with full knowledge of all risks attendant thereto, voluntarily and  
11 knowingly assumed all risks attendant upon their conduct, including any  
12 purported damages alleged to be related proximately caused.

13 18. As an eighteenth, separate, affirmative defense, Walmart alleges  
14 that, if it is subject to any liability because of the Stevens's Complaint, that  
15 liability will be due in whole or in part to the acts and/or omissions of other  
16 parties, or parties unknown at this time, and any recovery obtained by Stevens  
17 should be barred or reduced according to law, up to an including the whole thereof.

18 19. As a nineteenth, separate, affirmative defense, Walmart alleges  
19 that any injuries and damages sustained by Stevens were proximately caused by  
20 the intervening and superseding actions of others. And those intervening and  
21 superseding actions bar and/or diminish Stevens's recovery against Walmart.

22 20. As a twentieth, separate, affirmative defense, Walmart alleges that  
23 Stevens's Complaint is barred by the doctrines of res judicata and/or collateral  
24 estoppel.

25 21. As a twenty-first, separate, affirmative defense, Walmart alleges  
26 that it did not have either actual or constructive notice of the conditions, which  
27

1       existed at the time and place mentioned in the Complaint and which may have  
2       caused or contributed to the damages as alleged in Stevens's Complaint. This lack  
3       of notice prevented Walmart from undertaking any measures to protect against or  
4       warn of these conditions.

5               22.     As a twenty-second, separate, affirmative defense, Walmart alleges  
6       that Stevens was negligent, and otherwise at fault regarding the events alleged in  
7       the Complaint, and this negligence and fault is the proximate cause of any  
8       liabilities or damages Stevens may incur. Any recovery by Stevens should be  
9       precluded given that Stevens's negligence was greater than Walmart's.

10            23.     As a twenty-third, separate, affirmative defense, Walmart alleges  
11       that any reimbursement, from whatever source, to Stevens for the damages  
12       alleged in their Complaint must be applied against Walmart's liability.

13            24.     As a twenty-fourth, separate, affirmative defense, Walmart alleges  
14       that it may have additional defenses that cannot be articulated due to: (1)  
15       Stevens's failure to particularize their claims, including her unwillingness to  
16       identify the location of her injury; (2) the fact that Walmart does not have copies  
17       of certain documents bearing on Stevens's claims; and (3) Stevens's failure to  
18       provide more specific information about the injury, their damage claims and  
19       claims for certain costs which Stevens alleges that Walmart may share some  
20       responsibility. Therefore, Walmart reserves the right to assert additional defenses  
21       upon: (1) further particularization of Stevens's claims; (2) examination of the  
22       documents provided; (3) discovery of further information about the alleged  
23       damage claims and claims for costs; and (4) the development of other pertinent  
24       information.

25       Walmart prays this Honorable Court will:

26            1.     Dismiss the Complaint with prejudice or grant Stevens a reduced  
27  
28

1 amount based upon the admissions, denials and affirmative defenses as alleged  
2 above;

3 2. Award Walmart costs; and

4 3. Award Walmart such other and further relief as this Court deems  
5 just and equitable.

6  
7 Dated: March 1, 2017

**LAW OFFICES OF CHARLES ABBOTT, PC**

8 By: /s/ Charles Abbott

9 Charles Abbott (SBN 13811)  
10 21250 Hawthorne Boulevard, Suite 500  
Torrance, CA 90503

11 Attorney for Defendant, Wal-Mart Stores, Inc.  
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# EXHIBIT 4



no ans  
3/01/17

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ADR

1 REA  
2 RYAN M. ANDERSON, ESQ.  
Nevada Bar No. 11040  
3 JACQUELINE BRETTELL, ESQ.  
Nevada Bar No. 12335  
4 GARRY B. TRINH, ESQ.  
Nevada Bar No. 14289  
5 MORRIS//ANDERSON  
6 716 S. Jones Blvd.  
Las Vegas, Nevada 89106  
7 Phone: (702) 333-1111  
Fax: (702) 507-0092  
8 Attorneys for Plaintiff Darlene Stevens

DISTRICT COURT

CLARK COUNTY, NEVADA

11 DARLENE STEVENS, as an individual and as  
12 the wife of SCOTT STEVENS, and  
13 SCOTT STEVENS, as an individual and as the  
husband of DARLENE STEVENS,

CASE NO: A-17-750037-C  
DEPT. NO: III

14 Plaintiffs,

15 v.

16 KEVIN PRENTICE,  
17 WAL-MART STORES, INC, DOE  
18 MAINTENANCE EMPLOYEE, DOE  
EMPLOYEE, DOE JANITORIAL  
19 EMPLOYEE, DOE OWNER, I-V, ROE  
OWNERS, ROE EMPLOYER, and ROE  
20 COMPANIES.

21 Defendants.

REQUEST FOR EXEMPTION FROM ARBITRATION

23 COMES NOW, Plaintiff, by and through counsel, hereby requests the above-entitled matter be  
24 exempted from arbitration pursuant to Nevada Arbitration Rules 3 and 5, as this case:

- 25  
26 1. \_\_\_\_\_ presents a significant issue of public policy;  
27 2.   X   a case that has a probable jury award value in excess of \$50,000.00 per

- 1                    plaintiff, exclusive of interest and costs, and regardless of comparative liability;  
 2                    3. \_\_\_\_\_ presents unusual circumstances which constitute good cause for  
 3                    removal from the program.

4                    A summary of the facts that supports Plaintiff's contention for exemption is as follows:

5                    This matter arises out of a slip and fall incident that took place on May 10, 2015 at the Wal-  
 6                    Mart Store located at 540 Marks Street, Henderson, Nevada in Clark County, Nevada. On this date,  
 7                    Plaintiff DARLENE STEVENS slipped and fell due to liquid on the floor while she was an invitee at  
 8                    Defendants' premises. As a direct result of the said negligence and carelessness of the Defendants,  
 9                    and each of them, Plaintiff DARLENE STEVENS has been caused to suffer painful and potentially  
 10                   permanent injuries. As a result of the negligence of the Defendants, Plaintiff DARLENE STEVENS  
 11                   has suffered numerous injuries, for which Plaintiff DARLENE STEVENS has had to receive medical  
 12                   care.

13                   To date, Plaintiff DARLENE STEVENS' medical expenses total approximately \$478,012.09.  
 14                   Plaintiff DARLENE STEVENS has incurred the following medical expenses as a result of the subject  
 15                   incident, caused by Defendants:

	Provider	Total
1.	City of Henderson Fire & Rescue Ambulance	\$1,049.03
2.	St. Rose Dominican Hospital De Lima Campus	\$9,462.00
3.	Fremont Emergency Services	\$3,153.60
4.	Radiology Specialists, Ltd.	\$171.00
5.	Don Nobis Progressive Physical Therapy	\$7,805.00
6.	Advanced Orthopedic & Sports Medicine (Timothy Trainor, M.D.)	\$32,449.67
7.	Las Vegas Neurology Center (Paul H. Janda, D.O.)	\$6,700.00
8.	Innovative Pain Care Center (Daniel Burkhead, M.D.)	\$740.00
9.	MaxHealth Center (Kelly E. Murie, D.C.)	\$6,219.00
10.	Las Vegas Radiology (Elizabeth Huck, M.D.)	\$1,650.00
11.	Interventional Pain & Spine Institute (Hans Jorg Rosler, M.D.)	\$800.00
12.	Orthopedic & Sports Medicine Institute of Las Vegas (Randa Bascharon, D.O.)	\$590.00
13.	Duramedic Medical Supplies	\$135.00
14.	Durango Outpatient Surgery Center	\$35,626.63

15.	Valley View Surgery Center	\$344,043.96
16.	PBS Anesthesia (Scott Young, M.D.)	\$3,620.00
17.	Medical Technologies, Inc.	\$1,650.00
18.	Next Step Medical	\$1,500.00
19.	Open Sided MRI of Las Vegas	\$1,6450.00
20.	Tim Soder Physical Therapy	\$7,473.70
21.	Mountain West Chiropractic of Green Valley	\$4,745.16
22.	Bender Chiropractic Center	\$1,430.00
23.	Raxo Drugs	\$3,344.34
24.	Desert Orthopedic Center	\$792.00
25.	Las Vegas Neurosurgery, Orthopaedics & Rehabilitation (Mark Kabins, M.D.)	\$1,217.00
<b>Total:</b>		<b>\$478,012.09</b>

As is evidenced by the serious injuries diagnosed by Plaintiff DARLENE STEVENS' healthcare providers, together with the significant medical expenses incurred by Plaintiff DARLENE STEVENS, Plaintiffs' case has a probable jury award value in excess of \$50,000. Accordingly, and pursuant to NAR 3, this matter is appropriately exempted from the Court Annexed Arbitration Program. Copies of all of Plaintiff DARLENE STEVENS' medical records and bills will be provided upon request.

I hereby certify pursuant to N.R.C.P 11, this case to be within the exemption marked above and am aware of the sanctions which may be imposed against any attorney or party who without good cause or justification attempts to remove a case from the arbitration program.

DATED this 15<sup>th</sup> day of March, 2017.

MORRIS ANDERSON

JACQUELINE R. BRETELL, ESQ.

Nevada Bar No. 12335

716 S. Jones Blvd.

Las Vegas, Nevada 89107

Phone: (702) 333-1111


Fax: (702) 507-0092

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that on this 10 day of March, 2017, I served a copy of the foregoing **REQUEST FOR EXEMPTION FROM ARBITRATION** by serving a true copy thereof via the Court's Electronic System to the following:

Charles Abbott, Esq.  
Nevada Bar No. 13811  
LAW OFFICE OF CHARLES ABBOTT, PC  
2150 Park Place, Suite 100  
El Segundo, CA 90245

Ronald H. Reynolds, Esq.  
Nevada Bar No. 827  
Harrison J. Reynolds, Esq.  
Nevada Bar No. 13748  
REYNOLDS & ASSOCIATES  
823 Las Vegas Blvd. S., Suite #280  
Las Vegas, Nevada 8101  
*Attorneys for Defendant*  
*Wal-Mart Stores, Inc.*

  
\_\_\_\_\_  
An employee/agent of MORRIS ANDERSON

**E-Service Details of filing titled:**  
***Request for Exemption from Arbitration***  
**for Case Number A-17-750037-C - Darlene Stevens, Plaintiff(s)vs.Kevin Prentice, Defendant(s)**

Firm Name	User Name	User Email	Served	Date/Time Opened		
Morris Anderson	Jacqueline R. Bretell	Jacqueline@morrisandersonlaw.com	Yes	[ Not Opened ]	[details]	
Morris Anderson	Real Jumao-as	Real@Morrisandersonlaw.com	Yes	2017-03-15 10:13:03.0	[details]	
Morris Anderson	Katie Ader	Katie@morrisandersonlaw.com	Yes	[ Not Opened ]	[details]	
Reynolds & Associates	Kim Simon	kim@reynoldslawyers.com	Yes	[ Not Opened ]	[details]	
Reynolds & Associates	Ronald H. Reynolds	Ron@Reynoldslawyers.com	Yes	[ Not Opened ]	[details]	

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# EXHIBIT 5

Charles Abbott (SBN 13811)  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

DARLENE STEVENS, as an individual  
and as the wife of SCOTT STEVENS, and  
SCOTT STEVENS, as an individual and  
as the husband of DARLENE STEVENS,

Plaintiff,

v.

KEVIN PRENTICE, WAL-MART  
STORES, INC., DOE MAINTENANCE  
EMPLOYEE, DOE EMPLOYEE, DOE  
JANITORIAL EMPLOYEE, DOE  
OWNER I-V, ROE OWNERS, ROE  
EMPLOYER, and ROE COMPANIES,

Defendants.

Case Number: A-17-750037-C  
Department No.: III

**DEFENDANT WAL-MART STORES, INC.'S  
NOTICE TO REMOVE PLAINTIFF'S CASE  
TO FEDERAL COURT**

**TO THE CLERK OF THE CLARK COUNTY DISTRICT COURT AND  
ALL PARTIES OF RECORD:**

On April 5, 2017, Defendant Wal-Mart Stores, Inc. removed this case to U.S. District Court, District of Nevada on grounds of diversity jurisdiction. Pursuant to 28 U.S.C. 1446(d), Wal-Mart Stores files a copy of its notice of removal, which is attached with the Clark County District Court, which will be served on Plaintiffs and their outside counsel.

Dated: April 5, 2017

**LAW OFFICES OF CHARLES ABBOTT, PC**

By: /s/ Charles Abbott  
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